

## **Exhibit 3**

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

Texas Association for the Rights of the §  
Unemployed, Kathryn Kawazoe, §  
Stephanie Stout, Kimberly Hartman, §  
Charles Harmon, and Jesus Duarte, §  
§  
Plaintiffs, § CIVIL ACTION NO. 1:22-cv-00417  
§  
v. §  
§  
Ed Serna, Executive Director, Texas §  
Workforce Commission, in his official §  
capacity, §  
§  
Defendant. §

**Plaintiffs' Third Requests for Production to**  
**Defendant Ed Serna**

TO: Ed Serna, by and through his attorney of record, Joseph Keeney, P.O. Box 12548, Austin, Texas 78711-2548, by email to joseph.keeney@oag.texas.gov.

Respectfully submitted,

TEXAS RIOGRANDE LEGAL AID, INC.

**/s/ David Mauch**

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**Certificate of Service**

I hereby certify that on April 20, 2023, this document was served on Defendant via email as follows:

Joseph Keeney  
joseph.Keeney@oag.texas.gov

*/s/ Dave Mauch*  
\_\_\_\_\_  
Dave Mauch

**Definitions and Instructions**

1. For the purpose of these requests, “audit” means any action by the TWC, after a claimant has initially been determined to be eligible, to investigate whether a claimant is eligible for benefits or whether a claimant is entitled to receive all or any portion of the benefits they have received. This does not include actions by the TWC in response to appeals from claimants or employers.
2. For the purpose of these requests, “DOL” means the United States Department of Labor, including any employee of the agency engaged in official business.
3. For the following requests, please produce only documents and statistics from Jan. 1, 2020, to present. For requests that include policies or legal guidance, please produce documents that reflect TWC’s policies or legal opinions and guidance at any time from Jan. 1, 2020, to the present, regardless of when those documents were created.
4. Your responses must include ESI. *See Fed. R. Civ. P. 34.*
  - a. Responsive information contained in audio and video files must be produced in its native format. If proprietary software is required to access those files, they must be produced in a file format that does not require proprietary software.
  - b. Responsive information contained in emails must be produced in .pst or .eml format with all threading preserved.
  - c. Responsive information contained in text messages must be produced in .pdf format or another text-searchable format.
  - d. Responsive information contained in image files must be produced in native format with all relevant metadata, such as EXIF data.
  - e. All other information must be produced in its native format, or, if native format is unavailable, in another reasonably accessible format in which it was normally accessed, edited, or maintained. When so requested, such information must be produced in an exported data format and recorded on a CD-R (Compact Disc-Recordable) or shared with Plaintiff via Dropbox or some other electronic document sharing service.
5. Responsive ESI must be produced with all relevant metadata. This includes:
  - a. For all files created or accessed on a computer: originating path and filename, date created, date last modified, date last saved, authors, last saved by, and date last printed.
  - b. For emails: all information contained in the email header, including sender, receiver, CCs and BCCs, time sent, time received, subject, and date.
  - c. For text messages: sender, receiver, CCs and BCCs, time sent, time received, subject, and date.
  - d. For images: EXIF data.
6. Production in paper hard copy, screenshot images, scanned copies of printed hard copies, and other formats that remove metadata are not acceptable. If you contend that electronic production is unduly burdensome, please include an objection that specifies why electronic production is burdensome.

7. If you produce ESI in a non-electronic format, without the metadata specified above or any other metadata, or if you object to the production of ESI, you must nevertheless preserve this information as required by law.
8. To the extent that these requests seek documents with personally-identifying information of non-Plaintiffs, you may redact that information before producing.

### **Requests for Production**

48. All communications between the TWC and DOL concerning the following:
  - a. The TWC's policies and practices for fraud prevention, including audits of claims for fraud;
  - b. The TWC's policies and practices for identity verification;
  - c. The TWC's policies and practices for issuing determinations of waiver, including policies concerning whether the TWC must issue a determination denying waiver in instances where the TWC believes a claimant has committed fraud or where the claimant failed to verify their identity;
  - d. The TWC's policies and practices concerning first-level appeal hearings, including efforts to provide claimants with timely first-level appeal hearings; and
  - e. Language used by the TWC on notices to claimants, including approval of notice language and audits of notice language.
49. All documents, communications, training materials, recorded trainings, guidance, instructions, handbooks, policies, notes, and memos evidencing the following:
  - a. The TWC's policies and practices that govern claim eligibility audits, including when audits may be conducted by the TWC, what events trigger audits, and policies concerning claim eligibility audits;
  - b. The TWC's policies and practices for fraud prevention, including audits of claims for fraud;
  - c. The TWC's policies and practices for identity verification;
  - d. The TWC's policies and practices related to first-level appeal hearings, including efforts to provide claimants with timely first-level appeal hearings;
  - e. The TWC's policies and practices that govern when the TWC, in conducting audits, may or must contact the claimant;
  - f. The TWC's policies and practices that govern the timeframe in which TWC staff may audit a claim, after the TWC becomes aware of information which may impact a claimant's eligibility;
  - g. The TWC's policies and practices that govern the timeframe in which TWC staff may audit a claim, if the TWC has not received any information that may impact a claimant's eligibility;
  - h. The TWC's policies and practices that govern when the TWC may make a determination of waiver of overpaid CARES Act benefits;
  - i. The TWC's policies and practices that govern when the TWC must make a determination of waiver of overpaid CARES Act benefits;
  - j. The TWC's policies and practices that govern when the TWC must issue a written determination of waiver of overpaid CARES Act benefits to an affected claimant;

- k. The TWC's policies and practices that govern when the TWC staff make a determination of waiver of overpaid CARES Act benefits, specifically concerning circumstances in which the overpayment is caused by the claimant's failure to complete enhanced identity verification;
  - l. The TWC's policies and practices regarding the interpretation of 40 TAC § 815.12(e)-(f); and
  - m. Language used by the TWC on notices to claimants, including approval of notice language and audits of notice language.
- 50. All communications, memoranda, meeting notes, and other documents concerning changes in policy or practice regarding the language of form notices issued by the TWC to claimants.
- 51. All communications, memoranda, meeting notes, and other documents concerning changes of language used on form notices issued by the TWC to claimants.
- 52. All documents, notes, and communications concerning the drafting of the press release attached as Exhibit B to Plaintiffs' First Amended Complaint.